

Maternity Leave and Pay Policy

Purpose

This policy sets out the entitlements and support available to pregnant employees and to those on, and returning from, maternity leave.

For information on other types of leave available for parents and carers please see the relevant policy in the A to Z section of the [HR Hub](#) or refer to the combined Family Friendly Policy.

Who does this policy apply to?

The policy applies to all employees of the Council, except those employed in schools under the control of Governing Bodies, for whom procedures adopted by the Governing Body will apply.

Confidentiality

The Royal Borough of Kensington and Chelsea processes personal data collected in accordance with its data protection policy.

Ante-natal care

You are entitled to take paid time off work for antenatal care and are not expected to make this time up. You are also entitled to a reasonable amount of time off to attend classes that a doctor or midwife has recommended. Where possible you should arrange appointments at the start or end of the working day. You may be required to produce evidence of appointments.

If you are a father, partner or civil partner of a pregnant woman, you are entitled to take unpaid leave to attend two appointments. This includes the intended parents if you are adopting or having a baby through surrogacy arrangements.

Maternity leave

All pregnant employees are entitled to take maternity leave, totalling a maximum of 52 weeks regardless of their length of service or hours worked. The mother must take two weeks compulsory maternity leave from the date of childbirth.

Maternity leave can begin no earlier than the beginning of the 11th week before the expected week of confinement (EWC) or from the day following childbirth if that is earlier.

Maternity pay

Maternity pay is payable for a maximum of 39 weeks and is made up of two elements;

1. Statutory Maternity Pay (SMP)
2. Occupational Maternity Pay (OMP)

Statutory Maternity Pay (SMP)

SMP is a statutory entitlement and payable where the following criteria are met

Eligibility	You must have been continuously employed by the Council for at least 26 weeks into the 15 th week before the EWC (the 'qualifying week'), and be earning before tax, an amount above the Lower Earnings Limit.
How much is paid	First 6 weeks at 90% of average weekly earnings with no upper limit Remainder of the statutory maternity leave period (up to 33 weeks) at the standard rate or a rate equal to 90% average weekly earnings, whichever is lower
If you don't return to work after leave	SMP does not have to be repaid maternity

If you do not qualify for SMP, the IBC will issue you with an SMP1 form which explains why you do not qualify. You should present the SMP1 to the Department for Work and Pensions who will determine whether you qualify to receive maternity allowance. In these circumstances the Council will pay you two weeks' pay.

Occupational Maternity Pay (OMP)

OMP is an element that the Council pays over and above the statutory amount, where the following eligibility criteria is met

Eligibility	An employee who has 26 weeks or more local government service into the 15 th week before your baby is due and also meet the eligibility criteria for SMP.
How much is paid	First 12 weeks full pay The next twenty weeks at half pay plus SMP Remainder of the maternity leave up to a maximum of
don't return to work after maternity leave	seven weeks at the current SMP rate If you Will be required to pay back the OMP that was received You retain your OMP if you remain in post for three
If you return on a part time basis	months

Statutory maternity pay is subject to tax and national insurance deductions. Pension contributions will continue whilst you receive pay.

Half pay and SMP must not exceed the equivalent of your full pay. For most staff a 'weeks' pay during maternity leave is the normal amount you receive under your contract of employment.

If you do not have fixed or normal working hours, then a week's pay is the average remuneration over the 12 weeks before your maternity leave starts.

Notification of maternity leave

You should advise your line manager that you are pregnant as soon as you feel comfortable and able to do so.

By the end of the fifteenth week before the EWC (or as soon as is practically possible) you must provide formal notification of your pregnancy including the date your baby is due and the date on which you would like her maternity leave to start.

Maternity risk assessment

Your manager must ensure that a **risk assessment** of the working environment is carried out to identify any potential risks to you whilst you are pregnant. Any potential risks should be removed, or, if this not possible, alternative temporary working arrangements made.

Pregnancy related illness

Pregnancy related illness will not count towards sickness triggers and formal management processes will not be used.

If you are absent from work because of a pregnancy related illness in the four weeks before your EWC your maternity leave and pay may commence from the day following the first day of her absence.

Premature births, still births and miscarriages

In the case of a stillbirth or miscarriage, you retain your entitlement to leave and pay if this occurs 24 weeks or more into the pregnancy. A stillbirth or miscarriage prior to this date means that there is no entitlement to maternity leave or pay.

The Council wants to take a proactive step to assist its employees in dealing with the premature birth of a baby which is why it has adopted the [Smallest Things](#) campaign.

We therefore agree to:

Extend your maternity leave if you give birth prematurely (before 37 weeks gestation) by the same number of days your baby was born prior to your due date. We will pay extended leave at full pay and this may be classed as compassionate leave. Your normal entitlement to maternity leave will continue to apply and will not be affected by this scheme.

Give partners the time they need to be with their baby in hospital, by granting up to two weeks' paid compassionate leave on the birth of their premature baby. Partners may wish to save or split their leave so they can be there when their baby comes home from hospital.

Full term hospitalised baby leave and pay

If your baby is hospitalised immediately following full term birth due to illness you will be entitled to receive full term hospitalised baby leave and pay for a period of up to 4 weeks. Full term hospitalised baby pay is equivalent to full pay and will be paid at the beginning of your maternity leave period.

Requesting maternity leave via the IBC

Once you have informed your line manager of your leave arrangements you will need to complete the e-form in the 'My Family Leave' app in ESS and upload the MAT B1 form.

On receipt of the e-form the IBC will write to you confirming your leave dates and entitlements.

Contact during maternity leave

You should discuss with your manager the contact arrangements that will be in place during your period of leave.

The level of contact should take into consideration your right to a private and family life, whilst at the same time, keeping you informed of any significant workplace developments and training opportunities to help you settle back into your job when you return to work.

For example, you may wish to receive newsletters, service information, minutes of relevant meetings and invitations to staff briefings or meetings. You may also wish to agree dates and times of informal one to one meetings or telephone conversations.

Please note, your manager is required to keep you informed of essential corporate information.

Keeping in touch (KIT) days

An employee on maternity or adoption leave is able to work for up to 10 days during their leave without losing any maternity or adoption pay and without bringing their leave to an end.

Work is defined as "any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the Council."

You will be paid your normal rate of pay for the time worked on each KIT day, less any maternity / adoption pay that you received for that day. For example, if you work five hours, then you will be paid five times your normal hourly rate.

If you attend work for more than 10 days, then your maternity/ adoption leave will end and your pay may be affected. Each day you attend work counts as a KIT day, even if you don't work a full day. KIT days are not compulsory.

Returning to work

If you wish to return to work earlier than the end of the 52 week period, you must provide 21 days' notice, in writing, of your intended date of return to your manager and provide notification to the IBC via the 'My Family Leave' app in ESS. Alternatively, your manager can do this via the 'Manage Family Leave' app.

You have the right to return to either exactly the same job, or in some cases, a similar one. Which right applies depends on when you return. If you return to work:

- after the first six months of leave, you are entitled to return to exactly the same job you were doing before your maternity leave
- after the second six months of leave, you are also entitled to return to exactly the same job, unless there is some reason why this not reasonably practicable. If this is the case, you are entitled to suitable alternative work on similar terms and conditions. If there are any proposed changes to your role prior to your return to work your manager will consult with you.

Returning part-time

You may request to return to work on a temporary part-time basis. Requests must be made and agreed with your line manager before you return from maternity leave.

Your line manager will consider your request taking into account the needs of the service and your wishes. A part-time arrangement will only be agreed where this can be reasonably accommodated.

Where a part-time return is agreed, the terms will be as follows:

- the arrangement will be up to a maximum of 3 months
- the revised working hours must be at least 18 hours per week, or at least half of the employee's contracted hours if they are working less than full time
- the number of hours worked must increase to the original contractual hours over the 3-month period

During any period of phased return, pay and annual leave entitlement is pro-rated according to the number of hours worked per week.

Resignation

If you wish to resign whilst on maternity leave, you should inform your manager as soon as you are aware that you will not be returning to work. Your last day of service will be the date of your letter of resignation and, if you are still being paid, your salary will cease from this date.

If you have received any occupational maternity pay you are required to return to work for a period of three months at the end of your leave. If you do not, then you will need to repay this money.

Where a resignation means you has been overpaid, the amount will be recovered in accordance with your contract of employment.

Pension

If you are a member of the Local Government Pension Scheme the employer pension contributions will continue to be made and employee contributions will continue to be deducted from your maternity pay.

If you are intending to take a period of unpaid maternity leave you should consult the Council's pension administrator for advice about the possible effects on your pension.

Continuous Service

Taking maternity leave does not constitute a break in service. Your service is regarded as continuous for the calculation of annual leave, sickness payment, and redundancy compensation.

If you return to local government service following a break for maternity reasons, or reasons concerned with caring for children or other dependants, you are entitled, under paragraph 14.2 of the Green Book to have previous service taken into account in respect of the maternity and sickness schemes provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.

For the purpose of the calculation of entitlement to annual leave the eight years' time limit does not apply provided that no permanent full time employment has intervened.

Maternity FAQs

I have just found out that I am pregnant, when do I need to tell my manager? It's best to let your manager know as soon as you personally feel that it is safe to. Your manager will undertake a risk assessment to make sure that you can work safely. You should always tell your manager about your pregnancy no later than 15 weeks before the expected week of childbirth (EWC) and provide them with the MATB1 form provided by your healthcare professional.

What is the Expected Week of Childbirth (EWC)?

The week in which your baby is due is referred to as the EWC - Expected Week of Childbirth. The EWC starts on the Sunday before the date your baby is due. Your maternity leave can't start prior to 11 weeks before your EWC.

How much notice do I have to give before I go on maternity leave? You should give your manager 21 days' notice of your intention to go on maternity leave. However, you can subsequently change your mind and vary the date. In this case If you wish to change the date on which you start your maternity leave, you should give as much notice as possible, taking into account the needs of the service and the impact on your pay. You will need to inform the IBC of any changes via the 'my family leave' app

If I wish to work right up to the expected date of birth, can I do so?

If you wish, you can work up to the expected date of birth. Ultimately, you are free to decide when your maternity leave will commence. Where there is concern about your continued health and safety, any decision about your start date for leave may have to be taken in conjunction with your manager and/or occupational health.

What happens if my baby comes early before I have started my leave?

Your maternity leave will start automatically the day your baby is born, even if this is before your notified date of starting your maternity leave.

Do I have to take all of the maternity leave I am entitled to if I don't want to take any unpaid leave?

No, you do not have to take all of your entitlement. The only requirement is that you are on compulsory maternity leave for the two weeks after the birth of your baby.

What happens if I have a period of sickness absence before my maternity leave? If you have a period of sickness absence prior to the beginning of the fourth week before the expected week of childbirth this will be treated as sick leave. If the absence continues after the planned start date of maternity leave, then this date may need to be reconsidered.

If you are absent from work because of pregnancy-related sickness absence or childbirth after the beginning of the fourth week before the expected week of childbirth, then your maternity leave will be automatically triggered.

Is there anything I need to do while I am on maternity leave?

With the agreement of your manager you may, if you choose, work for up to 10 keep in touch (KIT) days during your maternity leave. For instance, you might like to attend a team meeting, training or a conference. You also need to notify your manager if you choose to return early from your maternity leave.

What happens with my annual leave?

Your annual leave continues to accrue during your maternity leave. You may carry over more than the standard 5 days into the next leave year, but you must use this leave up by the end of that leave period.

What happens about bank holidays that fall during my maternity leave?

You will continue to accrue any bank holidays that fall during your maternity leave. With the agreement of your manager you may take these days after your maternity leave.

Can I work part-time when I return to work?

You may request to work a reduced number of hours gradually increasing to the contractual total within a maximum period of three months. If you wish to use some of the annual leave you have accrued whilst you have been on maternity leave, you may if you wish complement your part time hours with annual leave in order to be paid full time.

As the parent of a young child, you also have the right to request permanent part-time working or other flexible working arrangements. Please refer to the [Flexible Working Policy](#)

What should I do if I want to continue breastfeeding after I return to work?

Your manager must respect your right to continue breastfeeding when you return to work and should make every effort to accommodate your needs. Your manager must arrange for a health and safety risk assessment in order to identify any risks.

As your employer, RBKC is required to provide you with a private room where you will not be interrupted, in which to express your milk, suitable rest periods and access to a refrigerator in which you can store your milk.

I have only just come back from maternity leave, and I am pregnant again. Will I still be entitled to paid maternity leave?

This depends on when your unpaid maternity leave finished, and when you would be entitled to start your new maternity leave. If you were on unpaid maternity leave in the 15th week before your 2nd baby is due, you will not be entitled to SMP. But you will be entitled to occupational maternity pay, i.e. 6 weeks full and 20 weeks' half-pay.

What happens to my Season Ticket Loan when I am on maternity leave?

The allowance is unaffected by maternity leave, so if an employee has the combined loan and allowance, then payments and deductions continue until the end of the loan period. If they have the allowance only, then it continues to be paid until it needs renewal, i.e. 12 months from the start of payment.

What should I do if I decide not to return to work following my maternity leave? You should inform your manager as soon as you are aware that you will not be returning to work. Your last day of service will be the date of your letter of resignation and, if you are still being paid, your salary will cease from this date.

Will I have to repay my occupational maternity pay (OMP) if I do not return to work?

Employees who do not return from maternity leave and work for three months will have to repay their occupational maternity pay (OMP).